

QUINN EMANUEL URQUHART & SULLIVAN, LLP

Charles K. Verhoeven (Bar No. 170151)

charlesverhoeven@quinnemanuel.com

David A. Perlson (Bar No. 209502)

davidperlson@quinnemanuel.com

Melissa Baily (Bar No. 237649)

melissabaily@quinnemanuel.com

John Neukom (Bar No. 275887)

johnneukom@quinnemanuel.com

Jordan Jaffe (Bar No. 254886)

jordanjaffe@quinnemanuel.com

50 California Street, 22nd Floor

San Francisco, California 94111-4788

Telephone: (415) 875-6600

Facsimile: (415) 875-6700

Attorneys for WAYMO LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

vs.

UBER TECHNOLOGIES, INC.;
OTTOMOTTO LLC; OTTO TRUCKING
LLC,

Defendants.

CASE NO. 3:17-cv-00939-WHA

**DECLARATION OF FELIPE
CORREDOR IN SUPPORT OF
DEFENDANTS UBER TECHNOLOGIES,
INC. AND OTTOMOTTO LLC'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL THEIR RESPONSE TO
WAYMO'S OFFER OF PROOF RE
DEVELOPMENT EXPENSES AND
EXHIBITS THERETO**

1 I, Felipe Corredor, declare as follows:

2 1. I am an attorney licensed to practice in the State of California and am admitted to
3 practice before this Court. I am an associate at the law firm Quinn Emanuel Urquhart & Sullivan,
4 LLP, counsel for the Plaintiff Waymo LLC (“Waymo”). I have personal knowledge of the matters set
5 forth in this Declaration, and if called as a witness I would testify competently to those matters.

6 2. I make this declaration in support of Defendants’ Uber Technologies, Inc. and
7 Ottomotto LLC’s Administrative Motion to File Under Seal Their Response to Waymo’s Offer of
8 Proof re Development Expenses and Exhibits Thereto (the “Administrative Motion”). The
9 Administrative Motion seeks an order sealing the highlighted portions of Defendants’ Response to
10 Offer of Proof re Development Expenses (“Uber’s Response”) and of Exhibits 1 and 4 thereto, as well
11 as the entirety of Exhibit 3.

12 3. The portions of Uber’s Response and Exhibits 1 and 3-4 identified below contain or
13 refer to trade secrets and/or confidential business information, which Waymo seeks to seal.

14 4. Uber’s Response (portions marked in red boxes in version filed herewith), and Exhibits
15 1 and 4 (portions marked in red boxes in version filed herewith) contain, reference, and/or describe
16 Waymo’s trade secrets. The information Waymo seeks to seal includes the confidential design and
17 functionality of Waymo’s proprietary autonomous vehicle system, including its LiDAR designs,
18 which Waymo maintains as secret. I understand that these trade secrets are maintained as secret by
19 Waymo (Dkt. 25-47) and that the trade secrets are valuable to Waymo’s business (Dkt. 25-31). The
20 public disclosure of this information would give Waymo’s competitors access to descriptions of the
21 functionality or features of Waymo’s autonomous vehicle system. If such information were made
22 public, I understand that Waymo’s competitive standing would be significantly harmed.

23 5. Uber’s Response (portions marked in red boxes in version filed herewith), Exhibit 1
24 (portions marked in red boxes in version filed herewith) and Exhibit 3 (entire document) also contain,
25 reference, and/or describe Waymo’s highly confidential and sensitive business information. The
26 information Waymo seeks to seal regards confidential analysis of Waymo’s business and competition,
27 including financial details. I understand that this confidential business information is maintained by
28 Waymo as secret. The public disclosure of this information would give Waymo’s competitors access

1 to in-depth insight into—and analysis of—Waymo’s business strategy for its autonomous vehicle
2 system. If such information were made public, I understand that Waymo’s competitive standing
3 would be significantly harmed.

4 6. Waymo’s request to seal is narrowly tailored to those portions of Uber’s Response and
5 Exhibits 1 and 3-4 that merit sealing.

6
7 I declare under penalty of perjury under the laws of the State of California and the United
8 States of America that the foregoing is true and correct, and that this declaration was executed in San
9 Francisco, California, on February 1, 2018.

10 By /s/ Felipe Corredor

11 Felipe Corredor

12 Attorneys for WAYMO LLC

13
14 **ATTESTATION**

15 In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this
16 document has been obtained from Felipe Corredor.

17
18 By: /s/ Charles K. Verhoeven

19 Charles K. Verhoeven

MICHAEL A. JACOBS (CA SBN 111664)
MJacobs@mofo.com
ARTURO J. GONZÁLEZ (CA SBN 121490)
AGonzalez@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Tel: 415.268.7000 / Fax: 415.268.7522

KAREN L. DUNN (*Pro Hac Vice*)
kdunn@bsfllp.com
MICHAEL BRILLE (*Pro Hac Vice*)
mbrille@bsfllp.com
BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, N.W.
Washington DC 20005
Tel: 202.237.2727 / Fax: 202.237.6131

WILLIAM CARMODY (*Pro Hac Vice*)
bcarmody@susmangodfrey.com
SHAWN RABIN (*Pro Hac Vice*)
srabin@susmanGodfrey.com
SUSMAN GODFREY LLP
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019-6023
Tel: 212.336.8330 / Fax: 212.336.8340

Attorneys for Defendants
UBER TECHNOLOGIES, INC.
and OTTOMOTTO LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

v.

UBER TECHNOLOGIES, INC.,
OTTOMOTTO LLC; OTTO TRUCKING LLC,

Defendants.

Case No. 3:17-cv-00939-WHA

**DEFENDANTS UBER
TECHNOLOGIES, INC. AND
OTTOMOTTO LLC'S RESPONSE
TO WAYMO'S OFFER OF PROOF
RE DEVELOPMENT EXPENSES**

Judge: The Honorable William Alsup

Trial Date: February 5, 2018

UNREDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

1 **I. INTRODUCTION**

2 Waymo's motivations are transparent: having abdicated its responsibility to develop a
3 coherent damages model, it seeks to show to the jury as many billion dollar figures as possible in
4 order to skew any damages award. The numbers that Waymo seeks to admit are not
5 "development costs" for the eight trade secrets; they are program costs for Waymo's entire
6 autonomous vehicle program since inception. For each trade secret, Waymo has just taken
7 Google's total spend on anything related to its autonomous vehicle program—including cameras,
8 radar, sensors, software, firmware, on-board computers, and building its own vehicles—from
9 2009 to the date Waymo claims the alleged trade secret was finalized. Josephs Decl., Ex. 1,
10 Bananzadeh 30(b)(6) Dep. at 78:7-13; 94:3-25; 102:9-103:23; 105:4-17; 109:1-12; 146:20-147:6.
11 Among other things, these program costs include the cost of all the other 113 trade secrets alleged
12 in this case, including the trade secret upon which summary judgment was already granted in
13 Uber's favor, along with the costs associated with the patents that have all been dropped.

14 These aggregate program costs are not probative of the independent economic value of the
15 trade secrets because they have nothing to do with the eight trade secrets. And they do nothing to
16 inform the damages analysis because any unjust enrichment or royalty would be for the alleged
17 trade secrets—not for Waymo's entire autonomous vehicle program. It would be unfairly
18 prejudicial and would mislead the jury to permit Waymo to wave around billion dollar numbers
19 that bear no connection to the alleged trade secrets.

20 Waymo knows that these numbers do not represent development costs for the actual trade
21 secrets. In response to Uber's interrogatory on development costs, Waymo promised to provide
22 actual development costs through an expert, stating that "Waymo does not track costs on a trade
23 secret by trade secret basis in the ordinary course of business, and the cost of developing [the
24 trade secret] will be the subject of expert testimony." Dkt. 2325 (Plaintiff's Amended Fourth
25 Supplemental Objections and Responses to Uber's Interrog. Nos. 1-11 at Interrog. 6). Waymo's
26 30(b)(6) witness on development costs promised the same thing, stating that he did not know
27 what the trade secrets were, could not allocate costs to any trade secret, and that an expert would
28 do this:

1 Q Do you understand that you were designated corporate witness, so you're
2 supposed to do testify on behalf of the company regarding the cost of each of the
alleged trade secrets? Are you not prepared to testify as to that today?

3 A So—so I'm—I'm prepared to testify. And—and I have been trying to testify
4 about the numbers and the costs incurred by this program. **I am not technically**
5 **minded to say that a trade secret involved this cost versus that cost. I think**
6 **that's a more expert-based formulation.** And I'm not prepared or capable of—of
7 creating—like, I'm not an expert, right. Like, my understanding is you—you have
expert reports on these kinds of things, and there will be a whole, you know,
rigmarole around that. But I am prepared to tell you about what are the costs and
what we have been discussing about what the expenses that we're showing in these
various years.

8 Josephs Decl., Ex. 1, Bananzadeh 30(b)(6) Dep. at 95:1-21 (emphasis added); *see also id.* at 88:2-
9 89:3. Indeed, Waymo's 30(b)(6) witness could not even estimate the development costs
10 associated with LiDAR, again deferring questions to some expert.¹

11 In total, Waymo's 30(b)(6) witness deferred to this undisclosed expert over 25 times. He
12 also distanced himself from the argument that Waymo is now making to the Court:

13 I think you said that my testimony was that it costs **1.1 billion** to formulate those
14 two trade secrets. So I just want to say first that, like, that's — **that's not my**
15 **testimony.** What—what I'm saying is that insofar is that an expert calculated this,
16 it's—I'm showing the—my testimony is that in the years 2009 through 2015, those
were the expenses incurred. With respect to your—the—the core of the question
or, like, the latter part of what you just said of: Is there a double count, I don't
think I am technically minded enough to say whether that is true or not.

17 *Id.* at 94:12-25 (emphasis added); *see also* 93:11-15 (“Again, like, my under—my understanding
18 is, like, that's the method the expert used to surmise the—the data—the costs incurred based upon
19 historical spend that we—that I—that we provided.”).

20 Waymo's promised expert testimony never materialized, and Waymo has never provided
21 any estimates of actual development costs for the eight trade secrets—notwithstanding an
22 interrogatory directly calling for it and a Rule 30(b)(6) deposition on that very topic. Undeterred,
23 Waymo now tries to characterize its overall program costs as development costs for the eight
24 alleged trade secrets, and argues that they are relevant for two reasons: (1) to show that the trade

25
26 ¹ *Id.* at 75:17-21 (“My understanding is that we have experts who are going to provide the
27 reports and provide, like, a conclusion about a number that relates to that. So at least that's my
28 understanding of what's going on in this litigation.”); *id.* at 78:2-6 (“[I]f you're asking for the
LiDAR-related cost of, like, developing a LiDAR system in an SDS system, I think this is a
fundamentally, like, technical question that I—I'm not prepared to answer for you, right.”).

secrets have independent economic value and (2) for reasonable royalty and damages purposes. Both arguments are meritless and should be rejected. Waymo's offer of proof underscores the concerns expressed by this Court—Waymo has utterly failed to produce any evidence regarding the costs it incurred in developing the eight alleged trade secrets that the jury will evaluate. Waymo's overall program costs should be excluded both because they are irrelevant and because any marginal relevance is substantially outweighed by the probability that the jury will be misled and Uber will be unfairly prejudiced.

II. ARGUMENT

1. Waymo's Aggregate Program Costs Are Not Probative Of The Independent Economic Value of the Trade Secrets

By definition, whether a trade secret has independent economic value is based on the competitive advantage afforded by that specific trade secret. *See Mattel, Inc. v. MGA Entm't, Inc.*, 782 F. Supp. 2d 911, 959 (C.D. Cal. 2011) (stating that a trade secret "derives independent economic value from not being generally known when its secrecy 'provides a business with a substantial business advantage.'") (citing *Morlife, Inc. v. Perry*, 56 Cal. App. 4th 1514, 1522 (1997) (internal quotation marks omitted)). Waymo's aggregate program costs reflect the amount that Waymo claims it spent on its entire autonomous vehicle program, including cameras, multiple radar systems, telematics, computers, domes, software, and firmware. Indeed, Waymo's AV hardware is itself comprised of at least

1 Dkt. 1617 at 9. That Waymo spent millions or billions developing self-driving vehicles does
2 nothing to show the independent economic value of the specific trade secrets at issue in this case.
3 In addition, Waymo's aggregate program costs also include the cost to develop the patents that
4 Waymo has now dropped from the case and the purported trade secret (96) on which the Court
5 granted summary judgment—Waymo obviously cannot recover development costs for the patents
6 it has dropped and the trade secret claim that it lost.

7 To the extent that Waymo is arguing that its program costs represent development costs
8 for the trade secrets because everything is iterative and the product of prior work, this argument is
9 meritless and contradicted by Waymo's prior promises to provide actual development costs for
10 the trade secrets. It is nonsensical to suggest that things like the concept of a [REDACTED]
11 [REDACTED] required years of work on wholly unrelated hardware and software
12 systems at a cost of \$120 million. *See, e.g.*, Dkt. 2531 at 9. And, under Waymo's methodology,
13 anything developed in 2015—whether the most groundbreaking invention or entirely worthless—
14 would have necessarily cost \$1.1 billion because it was the product of all the prior work. *See*
15 Josephs Decl., Ex. 1, Bananzadeh 30(b)(6) Dep. at 90:25-91:3 (“So I—again, I think my
16 understanding of how the expert who created that value is that they took the numbers of spend
17 historically since inception through a certain date.”). This is wholly illogical, and confirms that
18 Waymo's purported “development expenses” are not probative in any way to demonstrating
19 independent economic value.

20 2. Waymo's Aggregate Program Costs Are Irrelevant to Damages

21 Waymo's program costs are similarly not relevant to damages, and their introduction
22 would be unfairly prejudicial. We know these program costs are *not* Waymo's costs to develop
23 the eight alleged trade secrets. The cases cited by Waymo all involve the use of the plaintiff's
24 development costs for the trade secrets at issue; none permit a plaintiff to use its aggregate
25 program costs to establish the value of one out of thousands of components. Indeed, Waymo has
26 claimed that there are at least 113 other trade secrets related to LiDAR alone, Dkt. 25-7, showing
27 that the alleged trade secrets are even a small part of LiDAR, let alone a fully autonomous
28

1 vehicle.² In *Nilssen v. Motorola, Inc.*, No. 93 C 6333, 1998 WL 513090, at *6 (N.D. Ill. Aug. 14,
 2 1998) (Illinois UTSA), the district court highlighted the problem of admitting non-apportioned
 3 damages evidence:

4 Hence even if Motorola itself (rather than Nilssen, as Motorola contends) had
 5 valued Nilssen's entire technology at \$50 million, Motorola unquestionably did
 6 *not* place that value, or any identifiable portion of that value, on the trade secrets
 7 that are at issue in this litigation. It would thus create a gross potential for unfair
 8 prejudice and jury confusion if the \$50 million figure were to be placed before the
 9 jury in any guise. So even if the \$50 million overall evaluation were somehow able
 10 to pass muster for admissibility under Rule 401 (a highly doubtful proposition at
 11 best), Rule 403 would still require its exclusion.

12 *Id.*

13 Waymo cites to an unpublished California Court of Appeals case, *Syntron Bioresearch,*
 14 *Inc. v. Fan*, No. D033894, 2002 WL 660446 (Cal. App. 4th 2002), to suggest that aggregate
 15 development costs can be used and strict apportionment is not required, but the facts in that case
 16 bear no resemblance to the facts here. There, a former employee misappropriated extensive trade
 17 secrets relating to pregnancy test kits, which allowed his new company to immediately clone the
 18 products and become "instantaneously commercially active." *Id.* at *13. The kits "played the
 19 dominant role in generating income for both [the plaintiff and defendant]," and the court of
 20 appeals concluded that the trial court engaged in a reasonable apportionment analysis whereby it
 21 concluded that roughly 75% of plaintiff's research and development costs were attributable to the
 22 kits and the defendant received the full benefit of those expenditures. *Id.*

23 Here, Waymo claims hundreds (if not thousands) of trade secrets are embodied in its
 24 LiDAR technology alone, which is only one of [REDACTED] within a self-driving
 25 car. And there is no evidence that Uber was able to take the eight alleged trade secrets and gain
 26 the benefit of all of Waymo's development work for the prior seven years. In short, *Syntron* and
 27 the other cases cited by Waymo stand for the unremarkable proposition that a plaintiff alleging an

28 ² That Waymo has asserted other trade secrets against Uber highlights one of the problems
 with Waymo's evidence. It will presumably assert the exact same program costs for each trade
 secret and try to get the jury to award the same damages over and over. Even within the confines
 of the case, Waymo is inviting the jury to double-count (or more) damages by claiming the same
 program costs for multiple trade secrets.

1 intentional tort need not apportion with surgical precision; they do not permit a plaintiff to
 2 sidestep apportionment all together, or to do it with a baseball bat.

3 Further, even assuming *arguendo* that there were any connection between Waymo's
 4 program costs and the trade secrets (which there is not), Waymo would still need to show how
 5 Waymo's costs could be probative as to Uber's costs. Waymo has absolutely no evidence that
 6 Uber's costs would be comparable to Waymo's costs. Different companies have different
 7 processes, priorities, and personnel.³ *See* Dkt. 2176 at 15 ("It seems unlikely that this type of
 8 simple comparison between two very different corporations' expenses could add much probative
 9 value[.]"); *see also* Dkt. 2516 at 2-3. And having started seven years after Waymo in a fast-
 10 developing field, Uber had the benefit of experienced engineers, improved technology, and
 11 extensive public research into autonomous vehicles, including Waymo's own patent applications,
 12 which disclose extensive details about its programs and prototypes. *See* Josephs Decl., Ex. 2,
 13 Bares 6/16/2017 Dep. at 129:3-7 ("I thought we could catch up and technology of course is on
 14 our side, computers get faster every year, storage gets cheaper. So starting later in this game has
 15 an inherited advantage just of that."). Having designated no expert on the subject nor conducted
 16 any development cycle analysis, Waymo has no evidence upon which the jury could rationally
 17 infer that Waymo's costs are in any way a proxy for Uber's saved costs.

18 Lastly, in addition to the unfair prejudice and confusion, the admission of Waymo's
 19 program costs will create a sideshow at trial because they are wrong: contemporaneous
 20 management presentations show that, as of September 25, 2015 (three months before the alleged
 21 misappropriation), Waymo had expended only [REDACTED]. Josephs Decl., Ex. 3, Chauffeur
 22 Presentation at 3 [REDACTED]
 23 [REDACTED]. Uber should not be required to waste its precious time delving into
 24 this irrelevant topic.

25
 26
 27
 28 ³ As just one example of the differences, Waymo has spent extensive resources building its own vehicle, while Uber has always focused on outsourcing to OEMs.

3. Waymo Is Precluded From Adducing Evidence Of Program Costs

Waymo should also be barred under Rule 37 from offering its program costs as a proxy for development costs. Waymo was served with an interrogatory asking it to identify how much each trade secret cost to develop. In response, Waymo did not claim that it was impossible, just that “Waymo does not track costs on a trade secret by trade secret basis in the ordinary course of business, and the cost of developing [the trade secret] will be the subject of expert testimony.” Dkt. 2325. Waymo then presented an unprepared Rule 30(b)(6) witness who knew nothing about the trade secrets or the costs associated with them and deferred questions to the undisclosed expert. Josephs Decl., Ex. 1, Bananzadeh 30(b)(6) Dep. at 88:2-9; 95:1-21. Waymo ultimately never disclosed any such expert testimony, and now—on the eve of trial—wants to misleadingly suggest to the jury that its aggregate program costs are the same as the development costs of the trade secrets. In addition to being irrelevant and unfairly prejudicial, this evidence should additionally be precluded under Rule 37.

4. Waymo Does Not Have a Sponsoring Witness for its Program Costs

An offer of proof is typically required to identify the witnesses who will offer testimony or introduce evidence. While Waymo’s offer of proof identifies Dr. Dolgov and Mr. Droz for background testimony on various trade secrets, Waymo generically cites “Waymo testimony and documentary evidence” as the basis for the program costs. *See* Dkt. 2531 at 7, 9, 10, 13, 14, 15. In the absence of a sponsoring witness, this evidence cannot be admitted, and Uber further objects on that basis. For example, Mr. Droz, who was initially designated as Waymo’s corporate representative on development costs, is plainly unqualified to testify on that issue:

Q. So how much did it cost to develop the trade secret of [REDACTED]

MR. JAFFE: Objection; form; outside the scope.

A. So—so from my personal knowledge, the—you know, the—I don’t—you know, I don’t have an actual tracking of all the cost used to—to—that we put in this. But, you know—you know, in there is probably the cost of making prototypes, the cost of of—you know, the cost of the engineering on designing those boards.

Q. So, you’re not prepared to talk about the cost of development of Trade Secret No. 2 as Waymo’s corporate designated witness; is that correct?

1 A. I'm not.

2 Josephs Decl., Ex. 4, Droz 8/3/2017 30(b)(6) Dep. at 155:23-156:13.

3 Finally, to the extent that Waymo is now going to try to identify a percipient witness, it is
4 far too late for that. Waymo has never identified any percipient witness to testify regarding the
5 cost of developing the eight purported trade secrets.

6 **III. CONCLUSION**

7 For the foregoing reasons, the Court should exclude evidence of Waymo's purported
8 development costs under Rules 402 and 403 and FRCP 37.

9
10 Dated: January 28, 2018

MORRISON & FOERSTER LLP
BOIES SCHILLER FLEXNER LLP
SUSMAN GODFREY LLP

11
12
13 By: /s/ William Christopher Carmody

14 Attorneys for Defendants
15 UBER TECHNOLOGIES, INC. and
16 OTTOMOTTO LLC
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION OF E-FILED SIGNATURE

I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this Response. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that William Christopher Carmody has concurred in this filing.

Dated: January 28, 2018

/s/ Michael A. Jacobs
Michael A. Jacobs

EXHIBIT 1

**UNREDACTED VERSION
OF DOCUMENT SOUGHT
TO BE SEALED**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WAYMO LLC,)
)
Plaintiff,)
vs.) Case No.
) 17-cv-00939-WHA
UBER TECHNOLOGIES, INC.;)
OTTOMOTTO, LLC; OTTO TRUCKING LLC,)
)
Defendants.)
_____)

HIGHLY CONFIDENTIAL--OUTSIDE COUNSEL'S EYES ONLY

VIDEOTAPED 30(b)(6) DEPOSITION of WAYMO LLC
by and through its Designated Representative
ASLAN (SHAWN) BANANZADEH
San Francisco, California
Thursday, August 24, 2017
Volume I

Reported by:
MARY J. GOFF
CSR No. 13427
Job No. 2688513

PAGES 1 - 235

Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WAYMO LLC,)
)
Plaintiff,)
vs.) Case No.
) 17-cv-00939-WHA
UBER TECHNOLOGIES, INC.;)
9 OTTOMOTTO, LLC; OTTO TRUCKING LLC,)
)
10 Defendants.)
_____)

Highly Confidential Videotaped Deposition of
ASLAN (SHAWN) BANANZADEH, Volume I, taken on behalf
of Plaintiff Waymo LLC, at Morrison & Foerster LLP,
425 Market Street, 33rd Floor, San Francisco,
California, 94105, beginning at 9:54 a.m. and ending
at 5:53 p.m., on August 24, 2017, before MARY GOFF,
Certified Shorthand Reporter No. 13427.

1 resistor could specify that this resistor should be 11:36:25
2 expensed against the cost for the LiDAR sensor or -- 11:36:29
3 MR. MACK: Objection. 11:36:37
4 Q (BY MS. CHANG) -- the timing board or 11:36:37
5 whatever it is that the resistor is intended to be 11:36:38
6 used for. 11:36:42
7 MR. MACK: Objection, form. 11:36:43
8 A So it -- when you say -- it -- Waymo set 11:36:44
9 up a system in the time that I have been there? I 11:36:50
10 haven't -- I haven't set up a system to say 11:36:53
11 specifically: This is the part. 11:36:56
12 Like, I don't tell someone: Go back and 11:36:57
13 revise this and tell me the exact part number. 11:37:01
14 Dating back to, let's just say, 2009, I -- 11:37:03
15 I don't know the answer whether somebody told 11:37:07
16 somebody to go give them an individual part number, 11:37:09
17 et cetera. 11:37:14
18 Q (BY MS. CHANG) Do you know if, at Waymo, 11:37:14
19 it's possible to break out each of these GL expenses 11:37:15
20 to correlate it to the various components of Waymo's 11:37:19
21 self-driving car? 11:37:22
22 MR. MACK: Objection, form. 11:37:22
23 A Like, possible -- again, like, if -- if 11:37:25
24 you told someone hypothetically to go, like, label 11:37:28
25 every P&L they put to an individual part number when 11:37:33

1 they purchased it, theoretically you could do that, 11:37:36

2 I guess, right. 11:37:38

3 Q (BY MS. CHANG) To understand your 11:37:39

4 testimony, you're saying it would be possible for 11:37:40

5 Waymo to retroactively go back and recategorize the 11:37:42

6 expenses? 11:37:49

7 MR. MACK: Objection, form. 11:37:50

8 A No. No. No, that wasn't my testimony. I 11:37:51

9 -- 11:37:54

10 Q (BY MS. CHANG) I'm just trying to 11:37:55

11 understand whether it's possible -- could we go to 11:37:56

12 Waymo today somewhere and either by looking at the 11:37:58

13 data sources or other information available at 11:38:01

14 Waymo, could we break out each of these GL -- 11:38:04

15 GL account expenses and map them to various 11:38:06

16 components of the self-driving car? 11:38:11

17 MR. MACK: Objection, form. 11:38:13

18 A I -- I -- I don't know, because I don't 11:38:15

19 know what everyone did historically every time they 11:38:17

20 purchased something. 11:38:20

21 Q (BY MS. CHANG) To your knowledge, as you 11:38:22

22 sit here today, it's not possible to break out each 11:38:23

23 of these GL account expenses to the various 11:38:26

24 components of the self-driving car? 11:38:30

25 MR. MACK: Same objection. 11:38:33

Page 71

1 A So it -- it -- can -- can you just repeat 11:38:34
2 the question? I -- I got lost. 11:38:39
3 Q (BY MS. CHANG) You're the company 11:38:42
4 representative -- 11:38:43
5 A Right. 11:38:43
6 Q -- on the cost of developing the trade 11:38:43
7 secrets? I want to know whether it's possible to 11:38:46
8 break out each of these GL account values and map 11:38:49
9 them to how much of a particular GL account relates 11:38:54
10 to a certain component on the self-driving car. 11:39:01
11 You testified that based on the 11:39:03
12 information in Exhibit 1400, which has Bates label 11:39:05
13 WAYMO-UBER-00027045, that it was not possible to 11:39:11
14 break out each GL account into the components of the 11:39:15
15 self-driving car. 11:39:20
16 Is there information available at Waymo 11:39:21
17 that would allow you to do that? 11:39:23
18 MR. MACK: Objection, form. 11:39:25
19 A So -- so I mean -- I mean, like, there's 11:39:27
20 the element of, like, did you buy -- because I 11:39:32
21 want -- I want to -- like, there's kind of different 11:39:34
22 ways of looking at it. 11:39:36
23 Did you buy a -- again, like, a resistor 11:39:39
24 for this? And did it -- what did it cost? Right. 11:39:41
25 That's -- that's one way of saying: What did it 11:39:43

1 cost to create that? Right. Well, there's that. 11:39:46

2 In contrast, if you said, for example: 11:39:48

3 What is the cost of the system as a whole, like, 11:39:50

4 insofar as it -- like, it all works together, right 11:39:55

5 like, you -- you know, there's different ways of 11:39:58

6 looking at it. 11:40:00

7 So I -- I'm going to go back to saying 11:40:00

8 that -- like: Could you say a particular part costs 11:40:03

9 this? It would be dependent on what it was coded as 11:40:06

10 and put through, right. But not knowing whether 11:40:09

11 that happened, like, I -- I can't answer that, like, 11:40:11

12 sitting here right now. 11:40:15

13 Q (BY MS. CHANG) Are you aware of any way to 11:40:18

14 break out each of these GL accounts to map onto 11:40:20

15 various components of the self-driving car? 11:40:24

16 MR. MACK: Objection, form. 11:40:30


17 A Mapping. 11:40:31

18 Q (BY MS. CHANG) So let's take one example. 11:40:31

19 Let's take the "Equipment and Related EXP" 11:40:33

20 GL account. If you look at 2016, there's a very 11:40:38

21 large number that starts with -- or that reads 11:40:47

22  11:40:53

23 Do you see that number? 11:40:59

24 A Yeah. I8? Cell -- Cell I8? Is that what 11:41:00

25 you're referring to? Right? 11:41:04

1 Q Yes. 11:41:05

2 A Yes. 11:41:05

3 Q Are you aware of a breakdown of this 11:41:16

4 number at Waymo for each of the components that make 11:41:19

5 up the self-driving car? 11:41:25

6 A So there is -- like, if you go back to the 11:41:27

7 "Raw Data" tab, right, you can obviously divide it 11:41:31

8 up by cost center, right? So that's a breakup of 11:41:33

9 that expense already. 11:41:38

10 Then when it comes to -- and that shows 11:41:41

11 you different, like, budget owners' cost center 11:41:43

12 areas. So that's, like, a division that you could 11:41:46

13 have. 11:41:48

14 As far as, like, part numbers, I think, 11:41:50

15 is -- is, like, you're trying to go farther than 11:41:52

16 saying, like, big budget areas. 11:41:55

17 But then part numbers -- in some instances 11:41:56

18 people will code to a part number. And others, they 11:42:00

19 won't. So it -- it's -- again, it's a possibility, 11:42:03

20 but I -- I don't know for a fact that that breakdown 11:42:06

21 exists. 11:42:09

22 Q Are you aware of any information at Waymo 11:42:15

23 that would indicate how much of the "Equipment and 11:42:21

24 Related EXP" GL account relates to the LiDAR in 11:42:26

25 Waymo's self-driving car? 11:42:32

1 MR. MACK: Objection, form. 11:42:33

2 A Like, I don't think I can make that 11:42:37

3 determination. Because, again, like, what you view 11:42:39

4 the LiDAR as is -- in the con -- in the context of 11:42:41

5 the whole of the -- the -- the SDS system is 11:42:43

6 something that I don't think I can technically tell 11:42:48

7 you. So I don't think I can sit here and tell you: 11:42:51

8 This is how I would isolate that cost. 11:42:54

9 Q (BY MS. CHANG) Can -- has Waymo isolated 11:42:57

10 that cost? 11:43:00

11 A Which -- which -- sorry. When you say 11:43:00

12 "that cost," what are you referring to again? 11:43:01

13 Q The LiDAR-related cost portion -- sorry. 11:43:04

14 The LiDAR-related portion of the 11:43:07

15 "Equipment and Related EXP" GL account? 11:43:08

16 MR. MACK: Objection, form. 11:43:12

17 A My understanding is that we have experts 11:43:13

18 who are going to provide the reports and provide, 11:43:16

19 like, a conclusion about a number that relates to 11:43:18

20 that. So at least that's my understanding of what's 11:43:21

21 going on in this litigation. 11:43:24

22 Q (BY MS. CHANG) Does Waymo currently have 11:43:26

23 that information? 11:43:28

24 MR. MACK: Objection, form. 11:43:30

25 A The -- like, to the extent that the -- the 11:43:34

1 expert has, like, said there's this number that 11:43:37
2 relates to it, I know what that number is. I -- I 11:43:39
3 have seen it in interrogatory responses, yes. 11:43:42
4 Q (BY MS. CHANG) But that number is not 11:43:45
5 indicated in Exhibit 1400? 11:43:47
6 MR. MACK: Objection, form. 11:43:50
7 A I don't know if that -- that's true. 11:43:55
8 Because the -- the number, I think, is -- is 11:43:56
9 partially derived from the numbers that we provided 11:43:58
10 of how the program has, like, expensed things over 11:44:01
11 time so... 11:44:04
12 Q (BY MS. CHANG) Can you show me where in 11:44:05
13 Exhibit 1400, the LiDAR portion of any of these 11:44:08
14 GL accounts is indicated? 11:44:11
15 MR. MACK: Objection, form. 11:44:14
16 A Sorry. Again, going back to how the -- 11:44:17
17 the -- what's it called -- the -- the expert 11:44:21
18 formulated the conclusion, my understanding is they 11:44:25
19 used, like, a -- like, the whole is -- like, you 11:44:29
20 can't -- again, like I said, you can't take this 11:44:34
21 thing apart and say: This is it and that's 11:44:36
22 isolated. 11:44:38
23 So you use the whole development cost of 11:44:38
24 program that -- if you wanted to ask on those -- an 11:44:41
25 individual basis, like, I'm familiar with what these 11:44:43

1 numbers are on this and how that was informed. 11:44:46

2 Q But Exhibit 1400 doesn't break out the 11:44:49

3 LiDAR-related expense of "Equipment and Related 11:44:53

4 Expenses" GL account? 11:45:00

5 MR. MACK: Objection, form. 11:45:02

6 A Again, like, I don't think that I know how 11:45:05

7 to tell you what "LiDAR-related" means. Like -- 11:45:07

8 like, to me, that's a technical thing, and I'm not 11:45:10

9 equipped -- I can tell you what these numbers 11:45:13

10 represent. I can tell you, like, how they're 11:45:16

11 formulated, et cetera. 11:45:17

12 But to the extent that you're asking, if I 11:45:17

13 understand you correctly, like: What is the number 11:45:19

14 to create a LiDAR, I think that's, like, a technical 11:45:21

15 question that an expert could opine on. I can tell 11:45:24

16 you about the numbers, right. 11:45:27

17 Q (BY MS. CHANG) I'm not asking you for 11:45:28

18 technical definition. I just want to know if this 11:45:30

19 spreadsheet has a breakout of the LiDAR-related 11:45:33

20 portion of any of these GL accounts. 11:45:35

21 MR. MACK: Objection, form. 11:45:37

22 A I mean, I -- I'm not -- like, I -- I just 11:45:39

23 don't -- like, "LiDAR related," to me, like, I 11:45:41

24 can't -- I can't -- I can't understand what this is. 11:45:43

25 Like, if you could help me -- like -- like 11:45:45

1 I have said, like, this doesn't show a part-by-part 11:45:46
2 number, right. But if you're asking for the 11:45:49
3 LiDAR-related cost of, like, developing a LiDAR 11:45:52
4 system in an SDS system, I think this is a 11:45:54
5 fundamentally, like, technical question that I -- 11:45:58
6 I'm not prepared to answer for you, right. 11:45:59

7 Q (BY MS. CHANG) But your testimony is that 11:46:02
8 each of these accounts relates to the expenses for 11:46:03
9 the entire self-driving car? 11:46:05

10 A The -- so this -- this -- these accounts 11:46:08
11 in totality capture the cost of creating a 11:46:10
12 self-driving system within which the LiDAR is an 11:46:14
13 integral part. 11:46:19

14 Q You stated that LiDAR is an integral part 11:46:55
15 of the self-driving system. What other integral 11:46:59
16 parts are you aware of? 11:47:04

17 A I mean, again, my nontechnical 11:47:07
18 understanding is that, like, you need to have LiDAR 11:47:10
19 to do this. Like, that's about as far as my, like, 11:47:12
20 nontechnical understanding of this goes. 11:47:16

21 Q You're not aware of any other integral 11:47:19
22 parts of the self-driving system? 11:47:22

23 MR. MACK: Objection, form. 11:47:24

24 A The -- like, I don't pretend to -- to say 11:47:24
25 that, like, one is better than the other or 11:47:30

1 anything, but I know that the LiDAR is part of the 11:47:32
2 whole solution. 11:47:35

3 Q (BY MS. CHANG) Are you aware of any other 11:47:36
4 part of the whole solution for Waymo's self-driving 11:47:39
5 system? 11:47:43

6 MR. MACK: Objection, form. 11:47:44

7 A I -- I believe -- like, again, my 11:47:45
8 nontechnical understanding is that there are other 11:47:48
9 parts to it. But I -- I wasn't prepared here to 11:47:50
10 talk about what the technical elements of the 11:47:53
11 self-driving system are. 11:47:56

12 Q (BY MS. CHANG) Are there other integral 11:47:57
13 parts of the Waymo self-driving system, other than 11:47:57
14 LiDAR that you're aware of as you sit here today 11:48:00
15 you? 11:48:04

16 MR. MACK: Objection, form; beyond the 11:48:05
17 scope. 11:48:05

18 A Like, I don't -- I -- I don't -- like, I 11:48:07
19 can't say what are other technical -- or sorry. I 11:48:10
20 -- I don't know what to -- or I don't know what 11:48:14
21 other integral parts are, no. 11:48:18

22 Q (BY MS. CHANG) But you would characterize 11:48:19
23 LiDAR as an integral part? 11:48:21

24 MR. MACK: Objection, form; beyond the 11:48:23
25 scope. 11:48:23

1 A It -- in a nontechnical way without having 11:48:24
2 any kind of, like, technical training or 11:48:28
3 understanding, yes, I just did. 11:48:30
4 MR. MACK: Esther, I think we have been 11:48:33
5 going well over an hour, if now is a good time to 11:48:35
6 break. 11:48:40
7 MS. CHANG: Yeah. 11:48:40
8 THE VIDEOGRAPHER: We are off the record 11:48:41
9 at 11:49 a.m. 11:48:41
10 (A break was taken from 11:49 a.m. to 11:48:44
11 12:37 p.m.) 11:48:48
12 THE VIDEOGRAPHER: Okay. We are back on 12:36:02
13 the record at 12:37 p.m. 12:36:35
14 Q (BY MS. CHANG) I'm handing you what's been 12:36:43
15 marked as Exhibit 1520. Exhibit 1520 is 12:36:45
16 "Plaintiff's Amended Fourth Supplemental Objections 12:37:03
17 and Responses to Uber's First Set of 12:37:07
18 Interrogatories, Nos. 1 through 11." 12:37:09
19 Do you recognize this document? 12:37:15
20 A Yes, I believe so. 12:37:16
21 Q You previously testified that in 12:37:46
22 preparation to provide testimony in your capacity as 12:37:48
23 the corporate witness for the cost aspect of 12:37:56
24 Topic 9, that you had reviewed responses to 12:38:00
25 interrogatory requests. 12:38:05

1 Are these the responses that you reviewed? 12:38:06

2 A Yes, I believe so. 12:38:08

3 Q If you turn to page 61, you'll see 12:38:20

4 Interrogatory 6 listed here. And it reads, 12:38:28

5 Separately for each alleged Waymo trade secret 12:38:33

6 identified in response to Interrogatory No. 1, 12:38:37

7 describe how long it took and how much it cost to 12:38:40

8 develop. 12:38:43

9 Do you recall reviewing the response to 12:38:47

10 Interrogatory No. 6? 12:38:53

11 A I -- I don't recall reviewing that 12:38:54

12 specific one, no. 12:38:58

13 Q Did you help prepare the response to 12:39:08

14 Interrogatory No. 6? 12:39:12

15 MR. MACK: Objection, form. Again, I'll 12:39:13

16 just caution the witness not to reveal the substance 12:39:19

17 of any attorney/client privileged communications, 12:39:23

18 but you may answer. 12:39:25

19 A So like, to the extent there are, like, 12:39:26

20 dollar values in here and to the extent that those 12:39:30

21 dollar values were derived from, like, this report 12:39:33

22 that we have on the screen right now, then you could 12:39:36

23 perhaps say that, like, I helped prepare this. 12:39:40

24 But I did not, like, directly draft or -- 12:39:43

25 or answer -- answer this in any way, if -- if that 12:39:47

Page 81

1	answers your question.	12:39:51
2	Q (BY MS. CHANG) Going back to Exhibit 2090,	12:39:53
3	you were designated as Waymo's corporate	12:40:10
4	representative to testify to the cost of developing	12:40:14
5	each of the alleged Waymo trade secrets selected for	12:40:18
6	trial.	12:40:21
7	Did you review a list of the alleged Waymo	12:40:23
8	trade secrets selected for trial?	12:40:27
9	A So my understanding is -- is that there	12:40:35
10	were many trade secrets at issue in this case. Some	12:40:37
11	of them -- like, I think some of them are no longer	12:40:40
12	part of the case. I don't -- I don't know exactly,	12:40:45
13	to be honest.	12:40:47
14	But I believe there are some at issue, and	12:40:48
15	I -- and I did see those numbers that are still at	12:40:51
16	issue in the case.	12:40:55
17	Q Did you also review the descriptions or	12:40:56
18	the substance of the trade secret numbers? You --	12:40:58
19	you mentioned that you had reviewed the numbers?	12:41:00
20	A Right.	12:41:03
21	Q Did you also review the substance or the	12:41:03
22	description of that trade secret number?	12:41:06
23	A I believe I looked at a document that	12:41:10
24	listed them and had, like, detailed explanations. I	12:41:12
25	didn't -- I didn't read in detail any of them, no,	12:41:16

1 so I... 12:41:18

2 Q Turning to page 103 of Exhibit 1520, 12:41:37

3 trade -- you'll see that there are a "Trade 12:41:45

4 Secret 2" header. 12:41:55

5 A Um-hum. 12:41:57

6 Q And under this section it reads, 12:41:58

7 Information potentially relevant to determining such 12:42:10

8 cost estimates includes information that has been 12:42:15

9 produced at WAYMO-UBER-00027045, 12:42:19

10 WAYMO-UBER-00014506, WAYMO-UBER-00012830, 12:42:20

11 WAYMO-UBER-00014078, and WAYMO-UBER-00014489. 12:42:31

12 WAYMO-UBER-27045 is Exhibit 1400, and 12:42:42

13 that's the spreadsheet that we have been looking at. 12:42:48

14 A Okay. 12:42:52

15 Q I'm going to mark as exhibits, the 12:42:54

16 remaining documents that are cited in this 12:42:58

17 interrogatory response. 12:43:02

18 Exhibit 1413, which I have just handed 12:43:53

19 you, is the next document, WAYMO-UBER-00014506. So 12:43:56

20 did I give you the wrong -- no, I didn't. Is 12:44:07

21 that -- is that the document that you have? 12:44:10

22 A Yes. 12:44:13

23 Q Have you seen this document before? 12:44:17

24 A Yes. I saw it yesterday. 12:44:19

25 Q What is your understanding of what this 12:44:22

1 document is? 12:44:24

2 A This is the Term Sheet of the acquisition 12:44:27

3 of 510 Systems. 12:44:31

4 Q Had you seen it before yesterday? 12:44:34

5 A No. 12:44:35

6 Q The next document, WAYMO-UBER-00012830, 12:44:38

7 was previously marked as Exhibit 1414. This 12:44:46

8 document is the "Agreement and Plan of Merger By and 12:45:12

9 Among Google Inc., Plus 490 LLC; 510 Systems LLC; 12:45:16

10 each of the members of 510 Systems LLC; and with 12:45:20

11 respect to Articles VI, VIII, IX, and X only, 12:45:24

12 Anthony Levandowski, as member representative; and 12:45:26

13 U.S. Bank National Association as escrow agent," 12:45:30

14 dated as of July 28, 2011. 12:45:34

15 Do you recognize this document? 12:45:36

16 A Only insofar as I saw it yesterday. 12:45:41

17 Q Had you seen it before yesterday? 12:45:45

18 A No. 12:45:46

19 Q The next document listed in Waymo's 12:45:49

20 response to Interrogatory No. 6 for Trade Secret 2 12:45:54

21 on page 103 of Exhibit 1520 is WAYMO-UBER-00014078. 12:45:59

22 This document was previously marked as Exhibit 1415. 12:46:12

23 Exhibit 1415 is the "Google Inc. Project 12:46:33

24 Chauffeur Bonus Program." 12:46:39

25 Do you recognize this document? 12:46:41

1	A	Yes, insofar as I saw it yesterday.	12:46:45
2	Q	Before yesterday, had you seen this	12:46:48
3		document?	12:46:49
4	A	I hadn't seen the document, but I was	12:46:51
5		generally familiar with the 2011 special bonus plan.	12:46:54
6	Q	The final document listed in Waymo's	12:46:59
7		Interrogatory Response No. 6 for Trade Secret 2 is	12:47:02
8		WAYMO-UBER-00014489.	12:47:06
9		This document was previously marked as	12:47:13
10		Exhibit 1416. Exhibit 1416 is a letter from Google,	12:47:16
11		in particular, David Lawee, who was vice president	12:47:32
12		of corporate development at the time, to Anthony	12:47:38
13		Levandowski, dated April 13, 2011.	12:47:40
14		Do you recognize this document?	12:47:46
15	A	Only insofar as I read it yesterday.	12:47:49
16	Q	Before yesterday had you seen this	12:47:53
17		document?	12:47:55
18	A	No.	12:47:55
19	Q	Looking back at Exhibit 1520, which is	12:48:47
20		Waymo's interrogatory responses, on page 103, the	12:48:50
21		next sentence reads, That information -- referring	12:48:55
22		to the five documents listed before that sentence --	12:49:00
23		reflects that costs Waymo necessarily incurred for	12:49:10
24		the development, Trade Secret 2 are in the	12:49:13
25		1.1 billion range.	12:49:18

1 Did you help prepare that 1.1 billion 12:49:24

2 range number for Trade Secret 2? 12:49:28

3 MR. MACK: Objection, form. 12:49:30

4 A So -- so -- so again, insofar as that 12:49:34

5 number is derived from the numbers that you see of, 12:49:37

6 like, the historical spend at Waymo, to the extent 12:49:39

7 it incorporates those numbers, I would say yes. 12:49:44

8 Q (BY MS. CHANG) Do you know how that 12:49:48

9 1.1 billion number was calculated? 12:49:54

10 A So my understanding is that -- and this 12:49:59

11 is, I believe, a -- a formulation based on the 12:50:04

12 expert's calculations. But what -- what it is is a 12:50:08

13 summation -- am I allowed to alter this just so I 12:50:12

14 can read it easier? Can I make it into dollars? 12:50:19

15 No? 12:50:23

16 Q Yes, we -- yes, we can, but I think we 12:50:24

17 would then need to mark it as new exhibit, so -- 12:50:25

18 A Okay. 12:50:28

19 Q -- what we'll do is we'll mark this as 12:50:28

20 Exhibit 2091. 12:50:31

21 A It -- it's okay. I don't -- I won't 12:50:36

22 change it, just to keep it -- sorry. 12:50:37

23 Q Are you sure? 12:50:39

24 A Yeah. Yeah. 12:50:40

25 Q Okay. 12:50:41

1 A Sorry about that. So my understanding is 12:50:41
2 that because of the nature of the development of the 12:50:48
3 program as a whole, right, what it was is a -- kind 12:50:54
4 of a calculation of historical spend through the end 12:50:57
5 of 2015. 12:51:00

6 So if -- on the screen you can see that 12:51:02
7 essentially I'm -- I'm highlighting all the cells in 12:51:04
8 Row 16, Columns B through H. 12:51:08

9 And in the bottom corner, Excel does a 12:51:12
10 sum. So what that sum is saying is that this is 12:51:15
11 approximately \$1.1 billion. 12:51:17

12 Q For the record, the exact sum that is 12:51:40
13 shown in Exhibit 1400 when you highlight Cells B16 12:51:47
14 to H16, is -- 12:51:52

15 A Do you want me to read it out? 12:52:00

16 Q -- you can read it out. Or I was going 12:52:02
17 to, but you can. 12:52:04

18 A Oh, I'm sorry. I'm sorry. Okay. 12:52:05

19 Q It is 1084495404; is that right? 12:52:07

20 A Yes, that's what the screen shows. 12:52:20

21 Q And that's the number that is the basis 12:52:23
22 for the \$1.1 billion range that's shown as the 12:52:26
23 development cost for Trade Secret 2? 12:52:33

24 MR. MACK: Objection, form. 12:52:37

25 A That's -- that's my understanding of how 12:52:37

1 it was formulated. 12:52:39

2 Q (BY MS. CHANG) Do you know what Trade 12:52:41

3 Secret 2 is? 12:52:42

4 A Like -- like, in technical detail, no. 12:52:46

5 Q In any level of detail? 12:52:50

6 MR. MACK: Objection, form. 12:52:52

7 A I -- I know that it's at issue in the 12:52:57

8 case, but I don't -- like, I don't know the 12:53:00

9 technical details of it, no. 12:53:02

10 Q (BY MS. CHANG) Do you know anything about 12:53:03

11 Trade Secret 2? 12:53:04

12 A In -- I -- I mean, I didn't ask -- like, 12:53:07

13 no, I didn't ask detailed questions about Trade 12:53:10

14 Secret 2. 12:53:13

15 Q What do you know about Trade Secret 2, 12:53:14

16 other than that it's \$1.1 billion to develop? 12:53:15

17 A That to the extent it is -- take -- how do 12:53:23

18 I say this? 12:53:29

19 That its development was not limited to, 12:53:30

20 a -- like, a discrete point in time. And it -- 12:53:33

21 it -- the formulation of it and the basis for -- 12:53:36

22 thereby the basis of the calculation is that it is 12:53:37

23 the kind of -- from inception to the date of the 12:53:43

24 cutoff of -- whatever informs that cutoff date is 12:53:47

25 how it -- it's informed, right. 12:53:52

1 So there's a development time. It's not 12:53:52
2 like a discrete thing with, like, a discrete item. 12:53:54
3 It is a totality. And that's why, you know... 12:53:57
4 Q Other than the number, what do you know 12:54:03
5 about the technology that's captured by Trade 12:54:08
6 Secret 2? 12:54:11
7 MR. MACK: Objection, form. 12:54:12
8 A So what I know about technology is that it 12:54:21
9 was developed at Waymo. That would be -- and it was 12:54:23
10 technology that was developed in the program as a 12:54:32
11 whole. 12:54:36
12 Q (BY MS. CHANG) Do you know what aspect of 12:54:36
13 the technology that was developed by Waymo that 12:54:38
14 Trade Secret 2 relates to? 12:54:42
15 MR. MACK: Objection, form. 12:54:44
16 A Well, I think based off of my 12:54:45
17 understanding of how it was calculated, aspect -- 12:54:47
18 aspect is a little -- I guess I would take issue 12:54:51
19 with the word "aspect." Is that -- it -- it's a -- 12:54:55
20 it's a trade secret that is kind of comprehensive in 12:54:58
21 the program as a whole. 12:55:01
22 Like -- but again, that's just a -- like, 12:55:01
23 a nontechnical understanding of, like, how this 12:55:03
24 number was calculated. And I'm kind of deriving it 12:55:06
25 based off of that calculation. 12:55:09

1 Q (BY MS. CHANG) If you turn to page 172 of 12:55:11
2 Exhibit 1520. 12:55:14
3 A I'm sorry. What page again? 12:55:16
4 Q 172. 12:55:19
5 A Okay. 12:55:20
6 Q This is Waymo's Response to 12:55:36
7 Interrogatory No. 6 with respect to Trade Secret 25. 12:55:39
8 If you look in the middle of the first paragraph, 12:55:43
9 under that header it reads, Information potentially 12:55:48
10 relevant to determining such cost estimates includes 12:55:52
11 information that has been produced at 12:55:55
12 WAYMO-UBER-00027045, WAYMO-UBER-00014506 12:55:58
13 WAYMO-UBER-00012830, WAYMO-UBER-00014078, and 12:56:06
14 WAYMO-UBER-00014489. 12:56:15
15 I can represent to you that those are the 12:56:20
16 same five documents that were cited for Trade 12:56:23
17 Secret 2 that we just looked at. 12:56:26
18 The next sentence reads, That information 12:56:30
19 reflects that costs Waymo necessarily incurred for 12:56:34
20 the development of Trade Secret 25 are in the 12:56:39
21 1.1 billion range. 12:56:43
22 What is the basis of the \$1.1 billion 12:57:02
23 range number cited for Trade Secret 25 in Waymo's 12:57:05
24 response to Interrogatory No. 6 for Trade Secret 25? 12:57:09
25 A So I -- again, I think my understanding of 12:57:16

1 how the expert who created that value is that they 12:57:22
2 took the numbers of spend historically since 12:57:26
3 inception through a certain date. And like, same as 12:57:28
4 the previous one is that it goes through on -- 12:57:32
5 whichever exhibit number we labeled the screen. 12:57:35
6 Q 1400. 12:57:41
7 A Sorry. Yeah, 1400 is, again, from a -- 12:57:42
8 2009 through end of year 2015, which represents that 12:57:44
9 approximately 1.1 billion number. 12:57:48
10 Q It's the same calculation that was used 12:57:57
11 for Trade Secret 2 that we previously discussed? 12:58:00
12 A So -- so when you say "the same 12:58:05
13 calculation," I -- like, again, the -- to the 12:58:07
14 extent, like, an expert created that calculation, 12:58:11
15 I -- I can't tell you how precisely they calculate 12:58:13
16 it, right. 12:58:16
17 But my understanding is that it is a 12:58:17
18 culmination of all of the work that precedes -- took 12:58:19
19 -- took place preceding. And therefore, perhaps in 12:58:23
20 broad strokes it's a similar calculation. I don't 12:58:28
21 want to speak out of turn and say it's, like, the 12:58:30
22 same calculation. 12:58:33
23 Q I just want to make sure that I'm 12:58:34
24 understanding your testimony. You testified that 12:58:36
25 Trade Secret 2, which cited a \$1.1 billion cost, was 12:58:38

1 the sum of Cells B16 to H16 of Exhibit 1400, and 12:58:43
2 that was for Trade Secret 2? 12:58:52
3 A Yeah, the -- the last -- yes, correct. 12:58:54
4 Q And now we're looking at Trade Secret 25, 12:58:56
5 which also cites a 1.1 cost? 12:58:59
6 A Um-hum. 12:59:03
7 Q The calculation for that 1.1 billion 12:59:03
8 number, is it also the sum of Cells B16 to H16 of 12:59:06
9 Exhibit 1400? 12:59:12
10 MR. MACK: Objection, form. 12:59:14
11 A Yes, those same numbers inform that 12:59:19
12 number. 12:59:22
13 Q (BY MS. CHANG) Why is it that only the 12:59:23
14 costs incurred in 2009 through 2015 are used to 12:59:28
15 calculate the \$1.1 billion cost estimate for Trade 12:59:34
16 Secrets 2 and 25? 12:59:41
17 A Sorry. Why is -- why only those years as 12:59:46
18 opposed to what other years, I guess? 12:59:48
19 Q Why wasn't 2016 included? 12:59:52
20 A Well, my understanding based off of, 12:59:56
21 again, like, the trade secret being a technical 12:59:58
22 thing is that this says it took a period of time. 01:00:00
23 And that secret -- again, not being 01:00:03
24 technically minded about what a trade secret is 01:00:07
25 legally defined as or anything else, it's -- it's 01:00:10

1 formulation took that span of time; and therefore, 01:00:14
2 they're capturing that period of time's expense, 01:00:16
3 therefore. 01:00:22
4 Q Your testimony is that the development of 01:00:23
5 Trade Secret 25 incurred cost only up through 2015? 01:00:27
6 MR. MACK: Objection, form. 01:00:34
7 A My -- my testimony is that that is my 01:00:37
8 understanding of how it was calculated, yes. 01:00:39
9 Q (BY MS. CHANG) The same answer for Trade 01:00:41
10 Secret 2? 01:00:45
11 A Again, like, my under -- my understanding 01:00:48
12 is, like, that's the method the expert used to 01:00:50
13 surmise the -- the data -- the costs incurred based 01:00:55
14 upon historical spend that we -- that I -- that we 01:00:58
15 provided. 01:01:02
16 Q Do you know what the technology, that 01:01:08
17 Trade Secret 25 relates to, is? 01:01:11
18 MR. MACK: Objection, form. 01:01:16
19 A I don't know the specific technology or 01:01:20
20 technological elements that it informs. My 01:01:23
21 understanding is it's -- it's technology that is -- 01:01:27
22 was developed within Waymo Chauffeur -- 01:01:30
23 Q (BY MS. CHANG) Is that -- 01:01:33
24 A -- but that would be the extent of it. 01:01:34
25 Q You don't know any more details regarding 01:01:35

1 Trade Secret 25? 01:01:38

2 A No, I don't have any more details. 01:01:40

3 Q You testified that Trade Secret 2 incurred 01:01:44

4 a \$1.1 billion cost for development. You also 01:01:47

5 testified that Trade Secret 25 incurred the same 01:01:52

6 \$1.1 billion cost for development. 01:01:57

7 Is there any chance that costs of 01:02:20

8 development is being double counted between Trade 01:02:23

9 Secret 2 and Trade Secret 25? 01:02:26

10 MR. MACK: Objection, form. 01:02:29

11 A So one thing in -- in answering your 01:02:30

12 question, I think you said that my testimony was 01:02:33

13 that it costs 1.1 billion to formulate those two 01:02:36

14 trade secrets. 01:02:40

15 So I just want to say first that, like, 01:02:40

16 that's -- that's not my testimony. What -- what I'm 01:02:41

17 saying is that insofar is that an expert calculated 01:02:43

18 this, it's -- I'm showing the -- my testimony is 01:02:46

19 that in the years 2009 through 2015, those were the 01:02:49

20 expenses incurred. 01:02:54

21 With respect to your -- the -- the core of 01:02:56

22 the question or, like, the latter part of what you 01:02:59

23 just said of: Is there a double count, I don't 01:03:01

24 think I am technically minded enough to say whether 01:03:05

25 that is true or not. 01:03:10

1 Q (BY MS. CHANG) Do you understand that you 01:03:11
2 were designated corporate witness, so you're 01:03:13
3 supposed to do testify on behalf of the company 01:03:16
4 regarding the cost of each of the alleged trade 01:03:19
5 secrets? Are you not prepared to testify as to that 01:03:21
6 today? 01:03:25
7 A So -- so I'm -- I'm prepared to testify. 01:03:26
8 And -- and I have been trying to testify about the 01:03:29
9 numbers and the costs incurred by this program. 01:03:32
10 I am not technically minded to say that a 01:03:37
11 trade secret involved this cost versus that cost. I 01:03:39
12 think that's a more expert-based formulation. 01:03:44
13 And I'm not prepared or capable of -- of 01:03:49
14 creating -- like, I'm not an expert, right. Like, 01:03:52
15 my understanding is you -- you have expert reports 01:03:54
16 on these kinds of things, and there will be a whole, 01:03:56
17 you know, rigmarole around that. 01:03:58
18 But I am prepared to tell you about what 01:04:01
19 are the costs and what we have been discussing about 01:04:01
20 what the expenses that we're showing in these 01:04:04
21 various years. 01:04:07
22 Q If I understand your testimony correctly, 01:04:08
23 you're prepared to testify about the costs incurred 01:04:10
24 by Waymo's self-driving car program, but you are not 01:04:12
25 prepared to testify about the costs of each 01:04:19

1 individual trade secret; is that right? 01:04:22

2 MR. MACK: Objection to form. 01:04:23

3 A So again, insofar as that -- in this 01:04:26

4 interrogatory response there is a response that says 01:04:30

5 the trade secret costs \$1.1 billion. I can tell you 01:04:31

6 what numbers inform that. 01:04:36

7 So -- so yes, there's an -- there's an 01:04:37

8 expert conclusion about this, and I can help show 01:04:39

9 you -- like, to the two preceding questions you 01:04:42

10 asked, I showed you how that 1.1 billion was 01:04:45

11 informed. So that extent, I am providing my 01:04:48

12 testimony and the -- the basis for that \$1.1 billion 01:04:51

13 calculation. 01:04:54

14 Q (BY MS. CHANG) You know how the number was 01:04:54

15 calculated, but you're not offering any testimony as 01:04:56

16 to how that number relates to each of the trade 01:04:59

17 secrets? 01:05:02

18 MR. MACK: Objection, form. 01:05:02

19 A I don't -- I don't understand what you 01:05:05

20 mean by "how it relates to each of the trade 01:05:06

21 secrets." 01:05:09

22 Q (BY MS. CHANG) You're not providing any 01:05:09

23 testimony that -- for example, where it says, Trade 01:05:11

24 Secret 2 costs \$1.1 billion, you're not offering 01:05:14

25 that Trade Secret 2 actually costs \$1.1 billion; 01:05:17

Page 97

1 trade secret. 01:06:46

2 Q (BY MS. CHANG) You are testifying that -- 01:06:48

3 it is your testimony under oath that Trade Secret 2 01:06:49

4 costs \$1.1 billion? 01:06:54

5 MR. MACK: Objection, form. 01:06:57

6 A Again, to -- to the extent the expert 01:06:58

7 formulated that and -- and the basis is that all of 01:07:01

8 the work took -- took -- it's all of the preceding 01:07:03

9 work up until that time and that our -- the -- 01:07:06

10 the program's historical spend is that, then -- then 01:07:09

11 yes, consistent with that, \$1.1 billion is a correct 01:07:12

12 number. 01:07:16

13 Q (BY MS. CHANG) But you don't know what 01:07:16

14 Trade Secret 2 actually is? 01:07:17

15 MR. MACK: Objection, form. 01:07:19

16 A The -- the discrete technical elements of 01:07:21

17 it, no. 01:07:23

18 Q (BY MS. CHANG) And you don't know what 01:07:25

19 Trade Secret 25 is? 01:07:27

20 MR. MACK: Same objection. 01:07:28

21 A Again, the -- the discrete technical 01:07:29

22 elements of it, no. I -- like, to the extent it was 01:07:32

23 formulated over time and it is -- it is a product of 01:07:34

24 work since the inception of a program, that's -- 01:07:37

25 that's what I understand. 01:07:39

1 Q (BY MS. CHANG) Do you know if there was 01:07:46
2 any chance of double counting between the technology 01:07:47
3 that is claimed in Trade Secret 2 and the technology 01:07:50
4 that is claimed in Trade Secret 25? 01:07:54
5 MR. MACK: Objection to form. 01:07:57
6 A I -- like, what -- what would you consider 01:08:01
7 double counting? 01:08:06
8 Q (BY MS. CHANG) Claiming the claim cost 01:08:13
9 twice. 01:08:15
10 A Between -- between -- so -- so saying the 01:08:16
11 costs of developing one trade secret versus the 01:08:19
12 other are duplicative? 01:08:21
13 Q Yes. 01:08:26
14 A Without -- without understanding the 01:08:27
15 technical elements of -- of the trade secrets, 01:08:29
16 which -- which I admittedly don't understand the 01:08:30
17 technical elements, I -- I don't know that I can 01:08:34
18 answer that. 01:08:35
19 Q How are you able to testify that Trade 01:08:36
20 Secret 25 costs 1.1 billion if you don't understand 01:08:38
21 the technical details that are claimed by Trade 01:08:42
22 Secret 25? 01:08:45
23 MR. MACK: Objection, form. 01:08:46
24 A Again, because -- my understanding is -- 01:08:49
25 is that the trade secret was formulated since the 01:08:50

1 inception of the program. And it is the totality of 01:08:55
2 the technology as whole that -- that allows the 01:08:57
3 system to work. And therefore, all of the expenses 01:09:01
4 that come through that year that we ended on is why 01:09:03
5 that number is right. 01:09:06

6 So it's -- it's the -- the fact that a 01:09:07
7 given trade secret is a part of this entire 01:09:12
8 solution; and therefore, we took the expense of the 01:09:15
9 entire program and took them over a period of time 01:09:17
10 to what is determined as the date where it's, like, 01:09:19
11 formulated or -- not -- like, I don't know how to 01:09:23
12 describe it in whatever might be the applicable 01:09:25
13 term. 01:09:28

14 But that period of time you then take that 01:09:28
15 whole expense of the whole exclusion and say you 01:09:30
16 have now -- it's come to fruition, so to speak or 01:09:33
17 whatever, and that's how you will come up with the 01:09:34
18 \$1.1 billion. 01:09:37

19 Q (BY MS. CHANG) Your testimony is that 01:09:38
20 Trade Secret 2 costs \$1.1 billion to develop; is 01:09:40
21 that right? 01:09:44

22 MR. MACK: Objection, form. 01:09:44

23 A My testimony is that to the extent that 01:09:47
24 the -- the expert has surmised that this is, like, a 01:09:49
25 full-on, like, evolution and it -- all of the steps 01:09:53

1 preceding takes time to create the solution. You 01:09:59
2 take all of that spend, and it's 1.1 billion of 01:10:03
3 spend that occurred during that time. And 01:10:05
4 therefore, that's the way you come up to the 01:10:06
5 \$1.1 billion range identified in the interrogatory. 01:10:09
6 Q (BY MS. CHANG) It's your testimony that 01:10:12
7 Trade Secret 25 costs \$1.1 billion to develop; is 01:10:14
8 that right? 01:10:17
9 MR. MACK: Same objection. 01:10:18
10 A I -- I would answer that in the same way I 01:10:19
11 did the preceding question. 01:10:22
12 Q (BY MS. CHANG) What is your answer to the 01:10:23
13 question: What was the cost of developing Trade 01:10:24
14 Secret 2 and Trade Secret 25? 01:10:27
15 MR. MACK: Objection, form. 01:10:32
16 A So it -- to -- to -- what was the cost of 01:10:33
17 developing the trade secret? 01:10:38
18 Q (BY MS. CHANG) To clarify, the question 01:10:41
19 is: What was the cost of developing Trade Secret 2 01:10:42
20 and Trade Secret 25? So I want to know the combined 01:10:46
21 cost of developing those two trade secrets. 01:10:51
22 A I -- I don't know that I could answer 01:10:54
23 that, because I don't have, again, the technical 01:10:55
24 element of what the trade secret is. 01:10:57
25 I think that's -- that's something that I 01:10:58

1 don't know. But to the extent that -- like, if an 01:11:02
2 expert were to help -- like, tell me how you capture 01:11:05
3 those things, and we said: Well, is there, like, 01:11:09
4 this time element, for example, or something of that 01:11:12
5 sort, then I could look at that amount of time or 01:11:15
6 however and then come up with a number. Kind of 01:11:17
7 like what I have been describing in the preceding 01:11:19
8 answers. 01:11:22

9 Q You testified that Trade Secret 2 used the 01:11:22
10 same calculation as Trade Secret 25? 01:11:24

11 MR. MACK: Objection, form. 01:11:30

12 A Like -- so I -- I don't think I used the 01:11:31
13 word "calculation." But again, I think that we said 01:11:34
14 that in a similar manner, like, you took the whole 01:11:37
15 program's spend from inception to the time where 01:11:41
16 that trade secret was -- is determined to have, 01:11:44
17 like, come to fruition or whatever. 01:11:45

18 And you take all of that spend, because 01:11:48
19 these trade secrets are part of an integrated 01:11:51
20 whole -- like, it's a whole solution, right. And 01:11:54
21 that's my understanding of how that determination 01:11:56
22 was made. 01:11:57

23 Q (BY MS. CHANG) But isn't the calculation 01:11:59
24 of Trade Secret 2 based on that analysis, the same 01:12:02
25 way that you're calculating the cost for Trade 01:12:06

1 Secret 25? 01:12:08

2 MR. MACK: Objection, form. 01:12:11

3 Q (BY MS. CHANG) You seem to be implying 01:12:12

4 that the calculation is not the same, so I'm just 01:12:13

5 trying to figure out exactly what your testimony is 01:12:16

6 with respect to the calculations. 01:12:20

7 A Sure. And -- and -- again, like -- like I 01:12:21

8 said earlier -- I think a bit earlier is that -- 01:12:24

9 like, the precise calculation of what informs and 01:12:25

10 costs of the trade secret, I think it requires 01:12:29

11 certain technical elements. 01:12:31

12 But to the extent that it was a 01:12:32

13 time-based, like, evolution of the entire 01:12:35

14 technological solution, to the extent that is what I 01:12:39

15 understand of it, then perhaps it -- then in that 01:12:42

16 vein, yes. But again, I'm not the -- the -- the 01:12:47

17 expert who calculated that number, per se. 01:12:49

18 Q Okay. Stepping back, you keep on 01:12:53

19 mentioning an "expert." Is there a particular 01:12:54

20 expert you're referring to? 01:12:56

21 A I'm assuming who -- whichever expert 01:12:58

22 that -- it says "will be the subject of expert 01:13:01

23 testimony" here in the interrogatory. 01:13:05

24 Q That's true. I believe Waymo's experts 01:13:07

25 will be using this interrogatory response. But 01:13:10

Page 104

1 I can represent to you that those are the 01:15:09
2 same five documents that were cited for Trade 01:15:12
3 Secret 2 and Trade Secret 25 that we just looked at. 01:15:15

4 The next sentence reads, That information 01:15:18
5 reflects that costs Waymo necessarily incurred for 01:15:23
6 the development of Trade Secret 90 are in the 01:15:27
7 1.1 billion range. 01:15:31

8 What was the basis for calculating that 01:15:33
9 \$1.1 billion cost estimate? 01:15:36

10 A So again, my understanding is that it is a 01:15:41
11 cost that captures the entire program spend from 01:15:43
12 inception to the period of time where it stops -- I 01:15:47
13 think it's 2015, 2016, that 1.08 that you round up 01:15:54
14 to 1.1 billion. 01:15:59

15 It is informed by those same sets of 01:16:00
16 numbers for the totality of the program spend for 01:16:04
17 that period of time. 01:16:05

18 Q The calculation that was the basis of the 01:16:06
19 \$1.1 billion cost estimate for Trade Secret 90 is 01:16:09
20 the same calculation that was done for Trade 01:16:13
21 Secret 2 and Trade Secret 25? 01:16:16

22 MR. MACK: Objection, form. 01:16:18

23 A Again, my understanding being that it 01:16:23
24 covers the -- the time period for the formulation of 01:16:24
25 that trade secret, without knowing the technical 01:16:27

1 elements of it, is -- is a time period that spans 01:16:29
2 the program's total spend of \$1.1 billion. 01:16:32
3 Q (BY MS. CHANG) And that calculation is the 01:16:36
4 sum of Cells B16 to H16 in Exhibit 1400? 01:16:40
5 A I'll -- I'll accept that. I don't see it 01:16:50
6 on the screen, but I believe so. It's -- it's the 01:16:52
7 cells that I had highlighted earlier. 01:16:53
8 Q And that's the same 1.08 -- 01:16:58
9 A Correct. 01:17:02
10 Q -- billion number that we have been 01:17:02
11 looking at? 01:17:05
12 A Correct. 01:17:05
13 Q Do you know what -- the technical aspects 01:17:10
14 that is claimed by Trade Secret 90? 01:17:20
15 MR. MACK: Objection, form. 01:17:24
16 A I'm not familiar with the -- the precise 01:17:25
17 individual technical aspects of -- or sorry. Let me 01:17:29
18 rephrase. 01:17:31
19 I'm not -- I'm not familiar with the -- 01:17:31
20 the technical aspects of the individual trade 01:17:33
21 secret. My understanding is that insofar as it is 01:17:38
22 part of the entirety of this self-driving system. 01:17:42
23 Therefore, all of the costs of the program since 01:17:45
24 inception to the time are what then informs that 01:17:48
25 \$1.1 billion number. 01:17:52

1 Q (BY MS. CHANG) If I understand your 01:17:54
2 testimony correctly, the costs of the program from 01:17:56
3 inception to 2015 forms the basis for the 01:18:05
4 development cost for Trade Secret 2, Trade 01:18:12
5 Secret 25, and Trade Secret 90; is that correct? 01:18:15
6 MR. MACK: Objection, form. 01:18:20
7 A Can I get the question read back? 01:18:24
8 Q (BY MS. CHANG) If I understand your 01:18:28
9 testimony correctly, the costs of the self-driving 01:18:29
10 car program from inception to 2015 forms the basis 01:18:32
11 for the development cost for Trade Secret 2, Trade 01:18:36
12 Secret 25, and -- and now Trade Secret 90? 01:18:39
13 MR. MACK: Same objection. 01:18:45
14 A I -- I believe so, yes, if I understand 01:18:48
15 your question. 01:18:52
16 Q (BY MS. CHANG) Is there a part of the 01:18:54
17 question that you don't understand? 01:18:55
18 A So -- sorry. Can -- can you read it back 01:18:57
19 one more time? I apologize. 01:19:01
20 Q Your testimony is that the costs of the 01:19:03
21 self-driving car program from inception to 2015 01:19:08
22 forms the basis for the development costs of Trade 01:19:12
23 Secret 2, Trade Secret 25, and now Trade Secret 90? 01:19:16
24 A My understanding is that -- that since 01:19:23
25 inception through the year that you just identified 01:19:25

1 informs the \$1.1 billion number that was placed into 01:19:27
2 this interrogatory. 01:19:31
3 Q For each of those three trade secrets that 01:19:32
4 we have discussed so far? 01:19:34
5 A Correct. That period of spend is what 01:19:36
6 informed that number. And if I may add. The one 01:19:38
7 thing, like -- and we had reviewed this a little bit 01:19:41
8 earlier in the deposition. Is that -- to the extent 01:19:43
9 that there are historical expenses not captured, 01:19:45
10 that number is potentially higher. 01:19:47
11 But because of the way the Alphabet 01:19:50
12 structure was run historically, et cetera, 01:19:52
13 et cetera, that number is -- is reported lower in 01:19:54
14 the Exhibit 1400, I think, is the one that -- that's 01:20:00
15 the spreadsheet so... 01:20:04
16 Q To clarify, you're saying that the 01:20:12
17 number -- the 1.08 billion number that's shown in 01:20:14
18 Exhibit 1400 is actually lower than the actual spend 01:20:20
19 of the program from inception to 2015? 01:20:23
20 A Correct. Correct. As I mentioned 01:20:25
21 earlier, there are -- there are equity that's 01:20:26
22 missing from this, as well as, like, the 01:20:28
23 intracompany expenses of the allocated expensive. 01:20:30
24 Because, again, alphabetization, which is that 01:20:33
25 spinout, was something that happened later. 01:20:36

1 Q What is the cost of developing Trade 01:20:40
2 Secret 2, Trade Secret 25, and Trade Secret 90? 01:20:42
3 MR. MACK: Objection, form. 01:20:46
4 A So to the extent that the expert has 01:20:48
5 surmised that development of that trade secret is 01:20:55
6 something that is kind of program inception to the 01:20:58
7 date that, again, this comes to, like, fruition or 01:21:02
8 whatever you want to call it, it -- it is that 01:21:04
9 1 point -- it is the spend for the entirety of the 01:21:08
10 program from that inception to the date that that's 01:21:11
11 cut off at, which is 2015 or '16, based on the 01:21:14
12 spreadsheet. 01:21:19
13 Q (BY MS. CHANG) Given that the entirety of 01:21:19
14 the program cost from inception to 2015 is about 01:21:21
15 \$1.1 billion, would it be fair to say that the costs 01:21:28
16 of developing Trade Secret 2 is the same as the cost 01:21:31
17 of developing Trade Secrets 2, 25, and 90 together? 01:21:35
18 MR. MACK: Objection, form. 01:21:40
19 A You're asking: Is -- is the cost of 01:21:43
20 developing -- is the cost of developing one, the 01:21:45
21 same as the cost of developing all of them? 01:21:49
22 Q (BY MS. CHANG) All three of them that we 01:21:53
23 just discussed. 01:21:54
24 A I -- like, I don't know that I understand? 01:21:56
25 Like, is the cost the same? I mean, I guess my 01:22:08

1 answer would be that -- that they're all 01:22:20

2 wholly-integrated solutions in the system. And 01:22:24

3 like, this is (inaudible), like, a self-driving 01:22:26

4 system, so -- 01:22:26

5 THE COURT REPORTER: What is that? This 01:22:34

6 is? 01:22:34

7 A Sorry? 01:22:35

8 THE COURT REPORTER: They're 01:22:35

9 wholly-integrated solutions in the system. And 01:22:35

10 like? 01:22:35

11 A They're all wholly-integrated solutions in 01:22:35

12 the same system is what I meant to say. That -- 01:22:38

13 sorry. I lost my train of thought. 01:22:48

14 Q (BY MS. CHANG) You're the corporate -- 01:22:52

15 A Yeah. 01:22:55

16 Q -- representative on the cost of each of 01:22:55

17 the trade secrets? 01:22:56

18 A Right. 01:22:58

19 Q And I'm just trying to figure out how this 01:22:58

20 cost calculation works. You're testifying that 01:23:01

21 Trade Secret 2 costs \$1.1 billion, which is the 01:23:05

22 entire program cost from inception to 2015. 01:23:09

23 You're testifying that Trade Secret 25 01:23:13

24 costs \$1.1 billion, which is also the cost of the 01:23:16

25 entire program from inception to 2015. 01:23:23

Page 110

1 And you're also claiming that Trade 01:23:25
2 Secret 90 costs \$1.1 billion, which is the cost of 01:23:27
3 the entire program from inception to 2015. 01:23:34
4 Because you're claiming the entire program 01:23:39
5 cost for each of these trade secrets, I want to 01:23:42
6 understand that if it's your testimony that the cost 01:23:47
7 of developing all three trade secrets is also the 01:23:50
8 entire cost of the program from inception to 2015. 01:23:53
9 MR. MACK: Objection, form; beyond the 01:23:58
10 scope. 01:23:59
11 A I -- I don't know that I know how to 01:24:01
12 answer that. Because, again, like, given they all 01:24:04
13 have an interplay and -- and are all required, I -- 01:24:07
14 I don't think I -- I -- I have the technical 01:24:11
15 know-how to -- to -- to answer, like, if you 01:24:13
16 developed one wholly independently versus all of the 01:24:16
17 others, what would the costs be. 01:24:19
18 Q (BY MS. CHANG) That's not my question. 01:24:23
19 A I'm sorry. All right. I'm just having a 01:24:26
20 hard understanding -- 01:24:28
21 Q Yeah. 01:24:29
22 A -- to be honest. 01:24:29
23 Q Well -- so maybe -- I think there are two 01:24:30
24 potential answers to this question, and there could 01:24:36
25 also be an alternate answer. One potential answer 01:24:38

1 is because I'm already claiming the entire cost of 01:24:44
2 the program for -- for one of the trade secrets, 01:24:48
3 there's not more that I could claim for developing 01:24:50
4 all three. 01:24:53

5 Or you could say because I'm claiming 01:24:53
6 \$1.1 billion for one trade secret, \$1.1 billion for 01:24:58
7 another trade secret, and \$1.1 billion for a third 01:25:02
8 trade secret, that the cost of developing all three 01:25:07
9 of those would be 3.3 billion, even though that 01:25:09
10 exceeds the costs of the entire program. 01:25:12

11 I just want to know what your testimony 01:25:17
12 is. I -- if I wanted to figure out what is the cost 01:25:18
13 of developing three of these trade secrets that are 01:25:22
14 still at issue in this case, is it just -- 01:25:25

15 A Can -- I'm sorry. I'm sorry. Like, I 01:25:28
16 want -- I want -- I want to make sure I understand. 01:25:29
17 Could I -- could I restate it back to you so that, 01:25:30
18 like -- like, you're essentially posing a 01:25:33
19 hypothetical of: If you developed only one of these 01:25:36
20 trade secrets, how much would it cost versus if you 01:25:38
21 developed all three at the same time? 01:25:41

22 Q It's not a hypothetical, because Waymo has 01:25:42
23 responded that developing one trade secret costs 01:25:45
24 \$1.1 billion. 01:25:48

25 A Right. 01:25:49

1 Q That's not a hypothetical. That's Waymo's 01:25:50
2 response. 01:25:52
3 A Sure. 01:25:52
4 Q And you're Waymo's corporate 01:25:53
5 representative to give that testimony. 01:25:54
6 A Right. 01:25:56
7 Q My question is: Is the cost the same for 01:25:58
8 all three trade secrets -- if -- if I -- is the cost 01:26:01
9 of developing Trade Secret 2 the same as the cost of 01:26:08
10 developing Trade Secrets 2, 25, and 90? 01:26:11
11 MR. MACK: Objection, form; beyond the 01:26:14
12 scope. 01:26:15
13 A Again, to the extent they're identified as 01:26:16
14 the same number, then this is -- like, between the 01:26:19
15 responses for the individual trade secrets, the same 01:26:23
16 number is identified. Like, that's in -- in the 01:26:26
17 answer. So I -- 01:26:28
18 Q (BY MS. CHANG) I understand. 01:26:29
19 A -- don't know what else you're asking me 01:26:30
20 add to that. 01:26:33
21 Q So for each -- you have -- you have 01:26:34
22 identified a cost for each one -- for each trade 01:26:34
23 secret; is that correct? 01:26:37
24 A Right. They're -- in -- in the Responses 01:26:39
25 to Interrogatories, there's a cost identified for 01:26:40

1 MR. MACK: Objection, form; beyond the 02:29:34
2 scope. 02:29:34
3 A Again -- so you're saying if it finishes 02:29:46
4 in a period, like, in the -- in the -- in the 02:29:50
5 between period, are there expenses that are backed 02:29:52
6 out? 02:29:56
7 Q (BY MS. CHANG) My question is: If 02:29:58
8 development actually ends in the middle of a 02:30:01
9 month -- 02:30:04
10 A Okay. 02:30:05
11 Q -- by including the cost through the end 02:30:06
12 of the month, are you overstating that development 02:30:09
13 cost? 02:30:13
14 MR. MACK: Same objections. 02:30:14
15 A I mean, hypothetical -- hypothetically, I -- 02:30:15
16 like, I think it's -- it's -- it's a potential -- 02:30:20
17 there's a potential that if something is done 02:30:25
18 earlier, then it's not done later. I guess that's 02:30:28
19 what I'm understanding you saying. 02:30:31
20 Q (BY MS. CHANG) Let's say the development 02:30:33
21 cost -- 02:30:35
22 A Right. 02:30:35
23 Q -- for December 2013 -- the month of 02:30:35
24 December 2013 is a hundred thousand dollars. 02:30:38
25 A Okay. 02:30:43

1 Q Let's say development actually ends 02:30:44
2 somewhere in the month -- 02:30:47
3 A Okay. 02:30:49
4 Q -- somewhere in the middle of the month. 02:30:50
5 A All right. 02:30:53
6 Q Would claiming a \$100,000 development cost 02:30:54
7 for December 2013 overstate the actual cost? 02:30:59
8 MR. MACK: Objection, form; beyond the 02:31:06
9 scope. 02:31:06
10 A Again, it -- you would have to make a 02:31:07
11 whole series of other assumptions that, in fact, the 02:31:09
12 work -- the work and the dollars that are flowing 02:31:11
13 through in that later period are not attributable to 02:31:15
14 work that has already been completed that -- to 02:31:18
15 enable -- to enable -- in order -- in order to be 02:31:19
16 able to, like, differentiate, right. 02:31:21
17 Something about, you know, the way the 02:31:21
18 books are closed is they represent liabilities that 02:31:24
19 are indiscernibly captured in -- within a period. 02:31:26
20 So if you somehow sliced in a bright line 02:31:31
21 that everything is done, et cetera, and every single 02:31:36
22 person invoiced exactly on time as soon as it was 02:31:39
23 done, all of those things, then that's a 02:31:42
24 possibility, assuming there's a whole other set of 02:31:44
25 things potentially that have to go right to be able 02:31:47

1 to do that. 02:31:50

2 There is a possibility. I think the 02:31:51

3 circumstances would have to be very clear in that 02:31:53

4 situation. 02:31:57

5 Q (BY MS. CHANG) Do you know when 02:31:57

6 development of Trade Secret 7 was actually 02:32:00

7 completed? Trade Secret 7 claims a development cost 02:32:06

8 of \$120 million. 02:32:11

9 MR. MACK: Objection, form; beyond the 02:32:14

10 scope. 02:32:14

11 A I -- I don't have the technical expertise 02:32:15

12 to -- to say when development of that trade secret 02:32:18

13 was completed, no. 02:32:21

14 Q (BY MS. CHANG) Trade Secret 9 also claims 02:32:24

15 a development cost of \$120 million. Do you know 02:32:26

16 when development of Trade Secret 9 was actually 02:32:29

17 completed? 02:32:34

18 MR. MACK: Same objections. 02:32:36

19 A So same -- same answer as the preceding 02:32:37

20 one. 02:32:40

21 Q (BY MS. CHANG) Trade Secret 13 claims a 02:32:40

22 development cost of \$120 million. Do you know when 02:32:43


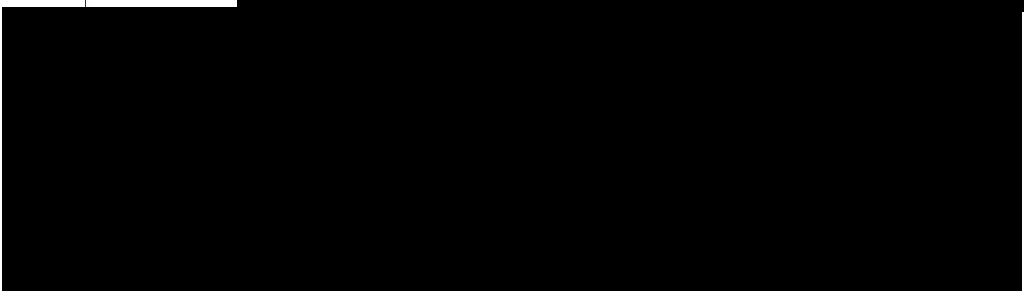
23 development of Trade Secret 13 was actually 02:32:48

24 completed? 02:32:51

25 MR. MACK: Same objections. 02:32:51

1 A The same answer. And -- and to just kind 02:32:52
2 of clarify generally, I don't know the precise 02:32:55
3 period in which a given -- I don't have the 02:32:58
4 technical expertise to say when a precise 02:33:00
5 development of any trade secret was completed. 02:33:02
6 I -- I do understand that based off of 02:33:06
7 the -- the expertise, that the calculation 02:33:08
8 represents periods that have ended in the various 02:33:11
9 respective endpoints, which we have discussed in the 02:33:15
10 preceding questions. 02:33:17
11 Q (BY MS. CHANG) Is your testimony the same 02:33:20
12 for all the trade secrets that you do not know when 02:33:22
13 actual development for any of the nine trade secrets 02:33:26
14 at issue was actually completed? 02:33:29
15 MR. MACK: Objection, form; beyond the 02:33:34
16 scope. 02:33:34
17 A Correct. I do not have the technical 02:33:36
18 expertise to know when the -- the formula -- the 02:33:38
19 formulation, I think was the word you used, of 02:33:40
20 the -- the trade secrets was completed for any of 02:33:43
21 them. 02:33:46
22 What I do understand and know is that the 02:33:47
23 numbers in the responses to the interrogatories 02:33:49
24 represent the various time periods which we have 02:33:53
25 just discussed and that the numbers that I have 02:33:55

1 pointed out in -- in the data that we have provided 02:33:58
2 in Exhibit -- Exhibit 1400. 02:34:01
3 Q (BY MS. CHANG) To clarify, I asked about 02:34:03
4 when development of each of the trade secrets was 02:34:05
5 completed. 02:34:09
6 A Right. And -- and what I'm saying is to 02:34:10
7 the extent that I understand what informed the 02:34:12
8 number, that would be how I would understand that to 02:34:14
9 be true -- an ending would have occurred. Like, it 02:34:18
10 would have been complete -- formulation would be 02:34:22
11 complete. 02:34:26
12 Q Your understanding of when each of the 02:34:28
13 trade secrets completed development coincides with 02:34:30
14 the end period used to form the basis of the 02:34:36
15 calculation for the development cost? 02:34:44
16 MR. MACK: Objection, form; beyond the 02:34:48
17 scope. 02:34:48
18 A That would be my nontechnical 02:34:49
19 understanding. 02:34:52
20 Q (BY MS. CHANG) As an example, Trade 02:34:52
21 Secret 2 claims a development cost of \$1.1 billion, 02:34:54
22 which you testified was based on the entire program 02:35:01
23 spend for Waymo's self-driving system from inception 02:35:06
24 to 2015. 02:35:10
25 Based on that calculation, your 02:35:13

1 understanding is that Trade Secret 2 completed its 02:35:20
2 development in December 2015; is that right? 02:35:23
3 MR. MACK: Objection, form; beyond the 02:35:27
4 scope. 02:35:27
5 A That would be my nontechnical 02:35:29
6 understanding. 02:35:32
7 Q (BY MS. CHANG) I'm handing you what was 02:35:38
8 previously marked as Exhibit 1079. Exhibit 1079 is 02:35:40
9 Exhibit 1 to the Declaration of Jordan Jaffe in 02:36:11
10 support of Waymo's Motion for Preliminary 02:36:19
11 Injunction. I can represent that to you. 02:36:21
12 If you turn to the second page, this 02:36:26
13 document is identified as "Plaintiff's List of 02:36:31
14 Asserted Trade Secrets Pursuant to California Code 02:36:34
15 Civil Procedure Section 2019.210. 02:36:39
16 Do you recognize this document? 02:36:43
17 A No. 02:36:48
18 Q You have never seen this document before? 02:36:48
19 A No. 02:36:50
20 Q If you turn to page 2 of Exhibit 1079, it 02:37:25
21 reads,  02:37:34
 02:37:40
02:37:43
02:37:47
02:37:50

[REDACTED]

02:37:53

02:37:58

02:38:00

02:38:05

02:38:07

02:38:10

02:38:13

02:38:16

02:38:18

10 See supra paragraph 1, second bullet, for
11 reasonable steps -- steps taken to maintain secrecy.

02:38:22

02:38:26

12 The last bullet point is the scope of

02:38:30

13 Trade Secret 2, and that reads, The trade secret

02:38:37

14 claim is [REDACTED]

02:38:41

02:38:47

02:38:51

02:38:55

02:38:59

19 Is this the first time that you're seeing
20 a description of Trade Secret 2?

02:39:07

02:39:10

21 A Yes.

02:39:12

22 Q Do you know if Waymo's self-driving car

02:39:18

23 system has components other than [REDACTED]

02:39:22

02:39:28

02:39:34

[REDACTED] 02:39:36

[REDACTED] 02:39:40

[REDACTED] 02:39:43

4 MR. MACK: Objection, form; beyond the 02:39:45

5 scope. 02:39:45

6 A Is -- if I could kind of try to synthesize 02:39:52

7 your question a bit. Like, essentially is -- is 02:39:56

8 there more to the self-driving system than a LiDAR? 02:39:58

9 Q (BY MS. CHANG) Yes. And specifically the 02:40:03

10 LiDAR described in the last bullet point of 02:40:04

11 paragraph -- paragraph 2. 02:40:07

12 MR. MACK: Same objections. 02:40:10

13 A Again, I'm not technically trained or -- 02:40:10

14 and I'm -- my general layman's understanding is that 02:40:14

15 there is more to our self-driving system than a 02:40:18

16 LiDAR, yes. 02:40:21

17 Q (BY MS. CHANG) If you turn to page 5, 02:40:23

18 Trade Secret 7 is listed on page 5. 02:40:40

[REDACTED] 02:40:50

[REDACTED] 02:40:54

[REDACTED] 02:40:59

[REDACTED] 02:41:03

[REDACTED] 02:41:07

[REDACTED] 02:41:11

[REDACTED] 02:41:14

EXHIBIT 4

**UNREDACTED VERSION
OF DOCUMENT SOUGHT
TO BE SEALED**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

---oOo---

WAYMO LLC,

Plaintiff,

vs.

No. 3:17-cv-00939-WHA

UBER TECHNOLOGIES, INC.;

OTTOMOTTO LLC; OTTO TRUCKING,

INC.,

Defendants.

/

HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY

WAYMO LLC RULE 30(b)(6)
VIDEOTAPED DEPOSITION OF PIERRE-YVES DROZ
PALO ALTO, CALIFORNIA
THURSDAY, AUGUST 3, 2017

REPORTED BY:

ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR ~

CSR LICENSE NO. 9830

JOB NO. 2663199

PAGES 1 - 371

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

---oOo---

WAYMO LLC,

Plaintiff,

vs.

No. 3:17-cv-00939-WHA

UBER TECHNOLOGIES, INC.;

OTTOMOTTO LLC; OTTO TRUCKING,

INC.,

Defendants.

/

Videotaped Deposition of Pierre-Yves Droz
taken on behalf of the Defendant, on August 3,
2017, at Morrison & Foerster LLP, 950 Page Mill
Road, Palo Alto, California, beginning 9:27 a.m.,
and commencing at 7:25 p.m., Pursuant to Notice,
and before me, ANDREA M. IGNACIO, CSR, RPR, CRR,
CLR ~ License No. 9830.

[REDACTED] 13:32

[REDACTED] 13:32

[REDACTED] 13:33

[REDACTED] 13:33

[REDACTED] 13:33

[REDACTED] 13:33

[REDACTED] 13:33

[REDACTED] 13:33

[REDACTED] 13:33

[REDACTED] 13:33

[REDACTED] 13:33

[REDACTED] 13:33

13 MR. KIM: All right. 13:33

14 Q So I -- I don't understand why you're saying 13:33

15 from your personal knowledge. You know, we -- we 13:33

16 looked earlier at your deposition topics. 13:33

17 A Yep. Okay. 13:33

18 Q And Exhibit 1273 specifically asks for the 13:33

19 time cost and specific people involved in developing 13:33

20 each of the alleged trade secrets. 13:33

21 MR. JAFFE: Which topic are you reading from? 13:33

22 MR. KIM: Deposition Topic No. 9. 13:33

23 Q And so I'm asking you about the -- the cost 13:33

24 to implement [REDACTED] -- 13:33

25 A So, are you asking what -- 13:34

1 THE WITNESS: Sorry. Go ahead. 13:34

2 MR. JAFFE: One -- one second here. 13:34

3 THE WITNESS: Yes. 13:34

4 MR. JAFFE: So, Mr. Droz is here subject to 13:34

5 our objections. As I stated at the outset of this 13:34

6 deposition, he's designated on the development of the 13:34

7 asserted trade secrets other than 25. So I just want 13:34

8 to make that clear for the record. 13:34

9 Go ahead. 13:34

10 THE WITNESS: I think also here there is true 13:34

11 costs, too. There is the cost of the actual units. 13:34

12 You know, is the -- the unit cheaper? 13:34

13 There's also the development cost, which is 13:34

14 the -- the -- how much, you know, the -- the cost was 13:34

15 used to -- to develop the -- the -- those boards. 13:34

16 So is your question about the actual cost of 13:34

17 the -- the finished good, basically -- or not finished 13:34

18 good, but the cost of the boards -- of making the 13:34

19 boards, or the cost of developing, you know, the -- 13:34

20 the boards? 13:34

21 MR. KIM: Let's talk about the cost for 13:34

22 developing the boards. 13:34

23 Q So how much did it cost to develop the trade 13:34

24 secret of [REDACTED] 13:35

25 MR. JAFFE: Objection; form; outside the 13:35

1 scope. 13:35

2 THE WITNESS: So -- so from my personal 13:35

3 knowledge, the -- you know, the -- I don't -- you 13:35

4 know, I don't have an actual tracking of all the cost 13:35

5 used to -- to -- that we put in this. 13:35

6 But, you know -- you know, in there is 13:35

7 probably the cost of making prototypes, the cost of -- 13:35

8 of -- you know, the cost of the engineering on 13:35

9 designing those boards. 13:35

10 MR. KIM: Q. So, you're not prepared to talk 13:35

11 about the cost of development of Trade Secret No. 2 as 13:35

12 Waymo's corporate designated witness; is that correct? 13:35

13 A I'm not. 13:35

14 (Document marked Exhibit 1278 13:36

15 for identification.) 13:36

16 THE VIDEOGRAPHER: 1278. 13:36

17 THE WITNESS: Thank you. 13:36

18 MR. KIM: So I've marked for identification, 13:36

19 as Exhibit No. 1278, an e-mail from John McCauley at 13:36

20 Quinn Emanuel, dated Wednesday, August 2nd, 2017, at 13:36

21 7:56 p.m. 13:36

22 Q And, if you look at the second paragraph, it 13:36

23 says: 13:36

24 "Waymo designates Mr. Droz to testify with 13:36

25 regard to Topics 9 and 10 of Uber's second 30(b)(6) 13:37